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S.L., Appellant)	
)	
and)	Docket No. 21-0760
)	Issued: January 6, 2022
U.S. POSTAL SERVICE, POST OFFICE,)	
Greensboro, NC, Employer)	
)	

Case Submitted on the Record

Before:
ALEC J. KOROMILAS, Chief Judge
JANICE B. ASKIN, Judge
PATRICIA H. FITZGERALD, Alternate Judge

¹ 5 U.S.C. § 8101 *et seq.*

noted that appellant had stopped work on November 10, 2020 and acknowledged that appellant was injured in the performance of duty.

In a development letter dated December 3, 2020, OWCP informed appellant that additional factual and medical evidence was necessary to establish his claim. It advised him of the type of factual and medical evidence needed and provided a questionnaire for his completion. OWCP afforded appellant 30 days to submit the necessary evidence.

OWCP received a report dated November 24, 2020 from Brian Gadoury, a chiropractor who noted appellant's history of injury and physical examination findings of subluxations at C1, C3, T8, L3, and S1.

Appellant responded to OWCP's development questionnaire on December 18, 2020. He recounted that the side of his vehicle was hit by another driver who ran a red light. Appellant also stated that he did not initially seek medical treatment, but when his neck did not stop hurting, he sought treatment with his chiropractor.

By decision dated January 13, 2021, OWCP accepted that the incident occurred as alleged, but denied appellant's claim as no medical evidence had been received containing a medical diagnosis causally related to the accepted incident. It noted that a report had been received from a chiropractor, however, the report did not diagnose subluxation based on x-ray evidence, and therefore it did not constitute probative medical evidence. OWCP concluded that the requirements had not been met to establish an injury as defined by FECA.

LEGAL PRECEDENT

An employee seeking benefits under FECA² has the burden of proof to establish the essential elements of his or her claim, including that the individual is an employee of the United States within the meaning FECA, that the claim was timely filed within the applicable time limitation period of FECA,³ that an injury was sustained in the performance of duty as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.⁴ These are the essential elements of each and every compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁵

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a fact of injury has been established. There are two components involved in establishing fact of injury. The first component to be established is that, the employee must submit sufficient evidence to establish that he or she actually

² *Id.*

³ *F.H.*, Docket No. 18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁴ *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *J.H.*, Docket No. 18-1637 (issued January 29, 2020); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁵ *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *Delores C. Ellyett*, 41 ECAB 992 (1990).

experienced the employment incident at the time and place, and in the manner alleged. The second component is whether the employment incident caused a personal injury and can be established only by medical evidence.⁶

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.⁷ The opinion of the physician must be based on a complete factual and medical background of the employee, be of reasonable medical certainty, and be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and specific employment factors identified by the employee.⁸

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a medical condition causally related to the accepted November 10, 2020 employment incident.

OWCP received a report from Dr. Gadoury, a chiropractor, which related subluxations findings based on his objective examination. A chiropractor, however, is only considered a physician for purposes of FECA if he or she diagnoses subluxation based upon x-ray evidence.⁹ As Dr. Gadoury did not diagnose subluxation based upon x-ray evidence, he is not considered a physician as defined under FECA and his medical report does not constitute competent medical evidence.¹⁰

As there is no medical evidence of record establishing a medical condition causally related to the accepted November 10, 2020 employment incident, the Board finds that appellant has not met his burden of proof.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

⁶ *T.H.*, Docket No. 19-0599 (issued January 28, 2020); *K.L.*, Docket No. 18-1029 (issued January 9, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

⁷ *S.S.*, Docket No. 19-0688 (issued January 24, 2020); *A.M.*, Docket No. 18-1748 (issued April 24, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

⁸ *T.L.*, Docket No. 18-0778 (issued January 22, 2020); *Y.S.*, Docket No. 18-0366 (issued January 22, 2020); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁹ Section 8101(2) of FECA provides that the term physician include chiropractors only if the treatment consists of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist. 5 U.S.C. § 8101(2). *See T.T.*, Docket No. 18-0838 (issued September 19, 2019); *Thomas W. Stevens*, 50 ECAB 288 (1999); *George E. Williams*, 44 ECAB 530 (1993).

¹⁰ *J.D.*, Docket No. 19-1953 (issued January 11, 2021); *C.S.*, Docket No. 19-1279 (issued December 30, 2019).

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish a medical condition causally related to November 10, 2020 employment incident

ORDER

IT IS HEREBY ORDERED THAT the January 13, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 6, 2022
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board